

Employee Workplace Bullying and Harassment Complaint Resolution Schedule



1 Purpose

To support the rights of both Students and Employees to achieve their full potential free from Workplace Bullying and Harassment, 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 Employee Discrimination, Bullying and Harassment Complaints Procedure and is subordinate to it.

3 Schedule

This schedule must be used to resolve Complaints of Workplace Bullying and Harassment made against a University Employee.

3.1 Complaint resolution preliminary actions

The University recognises that Workplace Bullying and Harassment can have a damaging effect on Employees, both personally and professionally and can have a detrimental effect on the workplace and the University as a whole.

Whilst the University adopts a three stage resolution process, where an individual has raised Workplace Bullying and Harassment concerns but does not wish to lodge an Informal Complaint or Formal Complaint, the University has a responsibility to take these matters seriously and may be obligated to pursue these concerns further, where they are considered to be of a serious nature and create a risk to an individual's health and safety.

Where necessary, the University may seek to separate individuals involved in a Workplace Bullying and Harassment Complaint. The specific action taken to separate individuals will be determined on a case by case basis. However, one option may include removing one of the individuals from the environment. Where this occurs, as a matter of principle, the University will normally remove the alleged harasser rather than the Complainant, except in instances where this arrangement is not practical to ensure the ongoing business operations of the University, or where there are genuine health and safety concerns for the Complainant. Other options to separate individuals may be considered as appropriate.

3.2 Resolution process

3.2.1 Stage 1: initial advice

If an individual feels they are being bullied or harassed at the University, there are a number of things that can be done to stop the Workplace Harassment. It is up to the individual what they choose to do.

Individuals can talk to, or write to, the harasser, explain that their behaviour is unacceptable, ask them to stop and/or quote the Workplace Bullying and Harassment definition, which states that “Workplace Bullying and Harassment is repeated, unreasonable behaviour of a person or a group of persons, by another or others in the workplace, and that creates a risk to health and safety”. Repeated Behaviour refers to the persistent nature of the behaviour and can range in behaviours over time. Unreasonable Behaviour is behaviour that may include but is not limited to behaviour that is offensive, victimising, humiliating, intimidating, degrading or threatening.

Individuals can talk to an Employee, and/or seek advice on the options available to resolve a matter from the appropriate Senior People Partner, a Union representative, or the Student Guild.

3.2.2 Stage 2: further advice and assistance

If an individual feels they are being harassed and bullied at the University, an individual can make an Informal Complaint to their Supervisor.

Supervisors must attempt to resolve Informal Complaints and will:

- Listen and discuss the options available and the possible outcomes. The Supervisor should listen to the Complainant, discuss formal and informal options and outline possible outcomes. The Complainant should not be made to feel that they should take certain action because of their responsibility to other individuals. It must be stated that there will be no Victimisation of the Complainant.
- Refer the Complainant to the appropriate Senior People Partner, Student Success and Wellbeing, a Union representative or the Student Guild for more detailed Information and guidance on Procedures if the individual has not already done so.
- Provide the Complainant with a copy of the relevant Complaint Resolution Policy and Procedure and pursuant Schedule.
- Support the Complainant to resolve their concerns via their chosen option to see if the concerns can be resolved without taking more formal action. These options may include:
 - speaking to the individual informally if they have not already done so in Stage 1
 - facilitating a meeting between those involved in the Complaint
 - seeking assistance from the People Portfolio to facilitate a Mediation process, where this is appropriate.

- Ensure that all discussions are held in confidence with a workplace colleague, or Nominated Representative present, if desired, by the Complainant.
- Seek advice or ask for assistance from the People Portfolio.

Where the Complaint relates to an individual or individuals within the same work area as the Complainant, the Complainant can ask their Supervisor to speak to the Respondent informally if they wish, to see if the situation can be resolved without taking formal action. The Supervisor should contact the Respondent on an informal basis with a view to resolving the Complaint without formal action. The Complainant's allegations should be stated verbally to the Respondent and the Respondent should be advised that it is an informal meeting but that they may be accompanied by a Nominated Representative. Respondents should also be informed of their rights.

Where a Complaint relates to an individual or individuals within a different work area to the Complainant, the Complainant may request that their Supervisor speaks directly with the Respondent's Supervisor to determine the most appropriate way to resolve the concerns on an informal basis with a view to resolving the Complaint without formal action.

The Complainant will be advised as to the outcomes of these discussions and no action will be taken unless authorised by the Complainant.

The Complainant may also request that the matter be dealt with through a neutral third party Mediation process. The Supervisor may also suggest that resolution by a neutral third party or Mediator be undertaken, and may take steps to initiate this process if both parties to the Complaint are in agreement.

Notes must be made of the meeting between the Supervisor and Complainant and agreed by both. Notes must also be made of any meeting between the Respondent (or Respondent's Supervisor) and the Supervisor and agreed by both parties. These notes should be retained by the Supervisor, with a copy provided to the other party as appropriate.

If the outcome of the Informal Complaint is not satisfactory to the Complainant, they should be informed of the process for taking formal action and any other options.

3.2.3 Stage 3: Investigation

Where the Complainant believes that the Informal Complaint has not been resolved, and wishes to pursue the matter further, a Formal Complaint must be lodged in writing with 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.

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 claim is found to be frivolous or vexatious the University may take action in accordance with section 3.3. A Complaint made in good faith is not a vexatious Complaint, even if the Complaint is eventually not substantiated.

On receipt of the Formal Complaint(s), the Chief People Officer will review the Formal Complaint and may, where appropriate, refer the written Complaint back to the Complainant's Supervisor in accordance with Section 3.2.1 in order to resolve the matter informally.

Where it is established that the Complaint is properly founded, the Chief People Officer will initiate an Investigation. The Chief People Officer will appoint a suitable person, who may be external to the University, to conduct the Investigation.

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 the Complaint is properly founded, the Chief People Officer 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 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 both 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 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.

The Chief People Officer will advise both the Complainant and the Respondent of the Chief People Officer's Decision and any action to be taken.

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

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

3.3 Disciplinary Action

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

Where Disciplinary Action is recommended the Chief People Officer will advise the Vice-Chancellor who, on the basis of the findings, will determine whether 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 Respondent(s) against whom the Complaint was made.

The University may take action against a person(s) making a frivolous or vexatious Complaint. 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	Chief People Officer
Responsible Officer	Chief People Officer
Policy Type	University Procedure
Policy Suite	Employee Complaints and Grievances Policy
Approved Date	13/7/2021
Effective Date	13/7/2021
Review Date	3/4/2022
Relevant Legislation	Anti-Discrimination Act 1991 Human Rights Act 2019 USQ Enterprise Agreement

Related Policies	Academic Freedom and Freedom of Speech Policy Code of Conduct Policy Employee Equity and Diversity Policy Harassment and Discrimination Complaint Resolution for Students Policy and Procedure Media Engagement Policy
Related Procedures	Disciplinary Action for Misconduct or Serious Misconduct Procedure Discrimination, Bullying and Harassment Complaints against Employees Procedure Employee Domestic and Family Violence Support Procedure Media Engagement Procedure Prevention of Discrimination, Bullying and Harassment Procedure Termination of Employment Procedure
Related forms, publications and websites	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 against another person of the University community. 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.

[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.

[Informal Complaint](#)

A Complaint expressed either verbally or in writing to a relevant delegate, which is not dealt with through a formal process of the University. It may involve a discussion with relevant parties in order to receive information and explore options on resolving the matter. It does not involve a formal investigation or the determination of evidence.

[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.

[Policy](#)

A high level strategic directive that establishes a principle based approach on a subject. Policy is operationalised through Procedures that give instructions and set out processes to implement a Policy.

[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 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 '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. 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.

[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. Supervisors 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 USQ Code of Conduct and other appropriate policies, and identify any development opportunities for individuals involved.

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 Procedure, 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.

Reasonable Management Action

Reasonable Management Action, carried out in a reasonable manner, is behaviour expressly excluded from Workplace Bullying and Harassment claims. The behaviour must be lawful management action; it must be reasonable for the management action to be taken; and the management action must be carried out in a manner that is reasonable, taking into consideration the circumstances. It includes action such as responding to poor performance, taking necessary Disciplinary Action and effectively directly and controlling the way work is carried out.

Keywords

Discrimination, Harassment, Victimisation, resolution, Complaint, Workplace Bullying and Harassment

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