

Employee Complaints and Grievances Policy



1 Purpose

To ensure that the University:

- offers a robust framework for managing and resolving Discrimination, Bullying and Harassment concerns and Complaints against Employees, and
- provides appropriate mechanisms for Employees to raise a Grievance or Complaint on other employment related matters,

in order to foster a safe and inclusive work, teaching and learning environment where individuals feel safe and supported and are able to work effectively, without fear of Discrimination, Harassment, Bullying, Vilification, Victimisation and/or reprisal.

2 Scope

This Policy applies to:

- all Discrimination, Bullying and Harassment concerns and Complaints raised against Employees (including honorary, visiting and adjunct appointments) by any individual (including Students) involved in University related activities.
- Grievances raised by Employees in relation to employment related matters.

Exclusions:

- Discrimination, Bullying or Harassment concerns or Complaints raised against members of University Council will be managed in accordance with the Policy on Complaints Involving Council Members and pursuant Procedure.
- Discrimination, Bullying or Harassment concerns or Complaints raised against a Student (including those made by an Employee) will be managed in accordance with the Harassment and Discrimination Complaint Resolution for Students Policy and Procedure.

3 Policy Statement

To support the rights of individuals to achieve their full potential free from Discrimination, Bullying, Harassment, Victimisation and Vilification, the University aims to provide a robust set of principles, responsibilities and Procedures associated with preventing and resolving Complaints of this nature made against University Employees.

In order to assist Employees who are faced with circumstances in which they feel aggrieved, the University also provides a mechanism for Employees to raise a Complaint or Grievance in relation to internal People Portfolio or employment related matters.

The University emphasises a collegial approach to concerns, Complaints and Grievance resolution through informal processes where possible. These processes are designed to lead to a prompt resolution of problems in an expeditious and confidential manner, with access to formal mechanisms for resolving Complaints and Grievances if required.

4 Principles

The University will take all reasonable steps and actions to ensure that Employees and Students will be treated fairly and with dignity and respect whilst working or studying at the University.

As part of the approach by the University to providing a fair, safe and productive work environment, consideration of Complaints and Grievances will be dealt with fairly, consistently, promptly and with sensitivity to all parties.

The University will comply with its legal responsibilities in accordance with all relevant legislation.

The University acknowledges that individuals have a legislative workplace right to raise a Complaint or Grievance in accordance with this Policy and that these rights are protected from certain unlawful actions including, but not limited to, adverse action.

All parties involved in Complaint or Grievance resolution processes are encouraged to participate in good faith and the principles of natural justice and procedural fairness will be observed.

Any breach of confidentiality may result in Disciplinary Action taken in accordance with the provisions of the relevant University Policy or Procedure.

In some circumstances a Complaint or Grievance under this Policy and pursuant Procedures may also be regarded as a matter that requires attention under the Public Interest Disclosure Policy.

With the exception of Complaints or Grievances that are made in accordance with the University's Public Interest Disclosure Policy, the University will not normally investigate anonymous Complaints unless the issues raised within the Complaint are of a serious nature

and sufficient Information is provided.

All Personal Information collected under this Policy and pursuant Procedures will be held and used in accordance with the University's Privacy Policy and Procedure.

4.1 Employee Discrimination, Bullying and Harassment Complaints against Employees

Discrimination, Bullying and Harassment will not be tolerated at the University under any circumstances and may in fact be unlawful under State or Commonwealth law.

As outlined in the Code of Conduct Policy and the Student Code of Conduct Policy individuals are responsible for making themselves aware of and adhering to University Policy on all forms of Discrimination, Bullying and Harassment.

Complaints of Discrimination, Bullying and Harassment will be treated seriously by the University and will be managed promptly in a thorough and confidential manner ensuring that all individuals, including witnesses, are not victimised.

The University may initiate disciplinary Procedure Investigations immediately in response to allegations of conduct or behaviour that may be considered misconduct.

Where an individual has raised Discrimination, Bullying and Harassment concerns but does not wish to lodge a Formal Complaint, the University has a responsibility to take these matters seriously and may be obligated to investigate these concerns further where they are considered to be of a serious nature and have the capacity to impact on an Employee or Student's health and safety, or another Employee or Student's health and safety.

The University's Procedures and processes for resolving Discrimination, Bullying and Harassment concerns and Complaints are underpinned by the following principles:

- Individuals making Discrimination, Bullying or Harassment Complaints will be supported by the University to make resolution Decisions and to take action to resolve their concerns.
- Complaints will be dealt with as expeditiously as possible with resolution as close as possible to the source.
- Complaints managed under the Employee Discrimination, Bullying and Harassment Complaints Against Employees Procedure will normally be dealt with and finalised within 21 days, where practicable.
- Complaints will be dealt with promptly and sensitively by experienced and authorised officers.
- At any time, an individual may withdraw the Complaint, seek assistance from a

Nominated Representative, or lodge a Complaint with an external agency, as appropriate.

- Complaints will be rejected if a preliminary Investigation of the facts indicates that they are found to be frivolous, vexatious, misconceived or lacking in substance.
- Complaints which are made in good faith are not vexatious Complaints, even if the Complaint is not eventually substantiated.
- Individuals are encouraged to raise genuine concerns without fear about unlawful, negligent or improper public sector conduct where they fall within this Policy and Procedure and are consistent with the definitions in the Public Interest Disclosure Act 2010 (Qld).
- Individuals advised of concerns which may be regarded as a matter that requires attention under the Public Interest Disclosure Policy should also refer this matter to the Public Interest Disclosure Coordinator.
- The University may initiate disciplinary Procedure Investigations immediately in response to allegations of conduct or behaviour that may be considered misconduct or serious misconduct and reserves the right to take Disciplinary Action against persons who knowingly lodge a vexatious complaint.
- Where required by legislation, the University may notify relevant external agencies and reporting bodies of matters as necessary.

Individuals wishing to lodge a Formal Complaint of Discrimination, Bullying and/or Harassment against an Employee of the University should refer to the Employee Discrimination, Bullying and Harassment Complaints Against Employees Procedure.

Individuals wishing to lodge a Formal Complaint of Discrimination, Bullying and/or Harassment against a Student of the University are referred to the Harassment and Discrimination Complaint Resolution for Students Policy and Procedure.

4.2 Employee Grievances

A Grievance is typically considered a concern or Complaint raised by an Employee against a process, action, omission or Decision within the responsibility and control of the University which relates to employment or related internal People Portfolio matters, which has or is likely to have an unreasonable negative impact on the ability of an Employee to undertake their duties, or similar impact on their career.

The University will maintain a clear and fair process to resolve the Grievances of Employees. In doing so, the University seeks to achieve and maintain a workplace that encourages a productive and harmonious working environment through:

- frequent discussion between Employees and their Supervisor
- cooperation between and amongst Employees of the University, and
- the opportunity for the satisfactory resolution of problems and Grievances in a positive and constructive manner.

The University has adopted a three-level Grievance resolution process which emphasises the resolution of the issue at the lowest possible level and can be summarised as:

- First level: Facilitation
- Second level: Mediation
- Third Level: referral to the Fair Work Commission.

The Grievance process will not be used to challenge Decisions of the Council, or Procedures required by industrial legislation or regulations.

Offers of compromise as well as agreements reached during the Grievance process will not constitute precedents in regard to similar Grievances, and are without prejudice to positions taken in similar circumstances or more general issues.

4.3 Frivolous and vexatious Complaints and Grievances

Where Complaints or Grievances at any stage of an Investigation or process are found to be unsubstantiated, misconceived, frivolous, vexatious or not lawful by reason of a provision contained in legislation, or in breach of this Policy, the University may, by Notice in writing addressed to the Complainant, dismiss the Complaint.

Employees who deliberately make false or malicious Complaints may be subjected to Disciplinary Action. Vexatious or frivolous Complaints by Students may result in the Student's conduct being investigated, and may also result in Disciplinary Action under the Student Code of Conduct Policy.

5 References

Nil.

6 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table

below.

7 Policy Information

Accountable Officer	Deputy Vice-Chancellor (Enterprise Services)
Responsible Officer	Deputy Vice-Chancellor (Enterprise Services)
Policy Type	Executive Policy
Policy Suite	Discrimination and Harassment Complaint Resolution Schedule Discrimination, Bullying and Harassment Complaints against Employees Procedure Employee Grievance Procedure Employee Workplace Bullying and Harassment Complaint Resolution Schedule
Subordinate Schedules	
Approved Date	12/12/2018
Effective Date	3/4/2019
Review Date	3/4/2022
Relevant Legislation	<u>Age Discrimination Act 2004</u> <u>Australian Human Rights Commission Act 1986</u> <u>Anti-Discrimination Act 1991</u> <u>Crime and Corruption Act 2001</u> <u>Disability Discrimination Act 1992</u> <u>Disability Services Act 2006 (Qld)</u> <u>Equal Employment Opportunity (Commonwealth Authorities) Act 1987</u> <u>Fair Work Act 2009</u> <u>Human Rights Act 2019</u> <u>Public Interest Disclosure Act 2010 (Qld)</u>

	<u>Public Sector Ethics Act 1994</u> <u>Racial Discrimination Act 1975</u> <u>Racial Hatred Act 1995</u> <u>Sex Discrimination Act 1984</u> <u>USQ Enterprise Agreement</u> <u>Work Health and Safety Act 2011 (Qld)</u> <u>Work Health and Safety Regulation 2011 (Qld)</u>
Related Policies	<u>Academic Freedom and Freedom of Speech Policy</u> <u>Code of Conduct Policy</u> <u>Employee Equity and Diversity Policy</u> <u>Harassment and Discrimination Complaint Resolution for Students Policy and Procedure</u> <u>Media Engagement Policy</u> <u>Public Interest Disclosure Policy</u> <u>Student Code of Conduct Policy</u> <u>Student Grievance Resolution Policy</u> <u>Working Hours and Arrangements Policy</u>
Related Procedures	<u>Disciplinary Action for Misconduct or Serious Misconduct Procedure</u> <u>Employee Conflict of Interest Procedure</u> <u>Media Engagement Procedure</u> <u>Work Allocation Procedure</u>
Related forms, publications and websites	<u>Feedback, Complaints and Appeals</u> <u>People Portfolio Website</u> <u>Student Equity Website</u>
Definitions	Terms defined in the Definitions Dictionary <u>Bullying</u>

Bullying occurs where an individual or group of individuals repeatedly behaves unreasonably towards a person or group of persons (in this instance, a Student or group of Students), and that behaviour creates a risk to health and safety.

[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.

[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.

Grievance

Typically defined as a concern or Complaint raised by an Employee against a process, action, omission or Decision within the responsibility and control of the University which relates to employment or related internal People Portfolio matters, which has or is likely to have an unreasonable negative impact on the ability of an Employee to undertake their duties, or similar impact on their career.

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.

Notice

A Notice from the University is a document, whether physical or electronic. A Notice may be: given by hand to the addressee or delivered to the address provided by the addressee to the University; or sent by registered or pre-paid mail to the address provided by the addressee to the University; or sent by electronic communication to the University-issued email account provided by the University to a Student during the period of Enrolment until the completion of their program; or sent by electronic communication to the email address provided to the University by an addressee not enrolled at the

University. A Notice is taken to be received if: given by hand to the addressee or delivered to the address provided to the University by the addressee; or sent by registered or pre-paid mail - three University Business Days after the date of posting; or sent by electronic communication - at the time that would be the time of receipt under the Electronic Transactions Act 1999 or its succeeding legislation. A Notice that would be deemed to have been received out of business hours or on a non-University Business Day will instead be deemed received on the next University Business Day.

[Personal Information](#)

Is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

[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](#)

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 policy 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 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.

Misconduct and Serious Misconduct

Are defined in accordance with the USQ Enterprise Agreement definitions 4.2.24 and 4.2.33 respectively.

Nominated Representative

Means in relation to an Employee, 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.

Supervisor

Any person responsible for leading the activities of others. In the context of this Policy, a Supervisor includes Employees at any classification level or title who have responsibilities for leading, managing or supervising work teams and/or individual Employees.

Keywords

Grievances, Disciplinary Action, misconduct, Complaints

Record No

15/2853PL

