

Discrimination, Sexual Harassment and Bullying Prevention and Management Procedure

Section 1 - Purpose / Objectives

(1) These procedures implement the [University's Discrimination and Sexual Harassment Prevention and Management Policy](#) and [Bullying Prevention and Management Policy](#) and must be read in conjunction with these documents.

(2) The purpose of the procedure is to:

- a. set out processes by which complaints of unlawful discrimination, harassment and bullying are managed and resolved;
- b. encourage University staff and students to raise issues of concern as soon as possible, with a view to resolving problems early and at the lowest possible level;
- c. set out the responsibilities of staff, students and managers in relation to allegations and observations of potential discrimination, harassment or bullying behaviour;
- d. help ensure that matters of unlawful discrimination, harassment or bullying are addressed in a timely, impartial and appropriate way.

Section 2 - Scope / Application

Complaints by students

(3) All complaints by students regarding discrimination or bullying will be handled in accordance with the student complaint process as established in the [Student Complaints Procedure](#) .

(4) The Procedures regarding Sexual Harassment and Sexual Assault are currently under review. In the interim, students should contact the Safer Community Unit for assistance and advice.

(5) If the complaint involves a staff member, the Student Matters Office will liaise with People and Culture throughout the complaint process to ensure that the process complies with the University's employment obligations to staff.

Complaints by staff

(6) Complaints by staff will be dealt with via this procedure.

(7) The Procedures regarding Sexual Harassment and Sexual Assault are currently under review. In the interim, staff should contact the Senior Employee Relations Adviser, People & Culture for assistance and advice.

Section 3 - Definitions

(8) Nil

Section 4 - Policy Statement

Discrimination, Harassment and Bullying (DHB) Prevention

(9) Every member of the University community has a responsibility to co-operate in the creation of an environment which is inclusive and safe.

(10) The University encourages early reporting by anyone who observes or believes they are the victim of discriminatory, harassing or bullying behaviour. Early reporting increases the chance of the issue being able to be resolved quickly.

(11) Disclosures about potential discriminatory, harassing or bullying behaviour will be handled appropriately and only those with a legitimate need to know will be notified.

(12) Where there are concerns of safety or well-being that affect participation of staff and students in work or study, supervisors, managers or College Deans may take appropriate interim action to address these concerns. Such action does not imply any wrong-doing on the part of the respondent.

(13) While staff and students are encouraged to utilise the University's internal policies, they are entitled to seek advice from and/or lodge a complaint with external bodies such as the Human Rights Commission, Victoria Police, Fair Work Commission, Fair Work Ombudsman and WorkSafe Australia.

Preventative and proactive action

(14) Under relevant legislation, those with control are required to make themselves aware of the potential for discrimination, sexual harassment and bullying to occur and to put controls in place to prevent such behaviours. Those with control need to make themselves aware, rather than relying on somebody complaining, to highlight an issue. Those with control includes any VU staff member or contractor that has authority over others and may include:

- a. Leaders
- b. Supervisors
- c. Managers
- d. Directors
- e. Discipline Group Leaders
- f. Deans
- g. Any staff member with teaching responsibilities.

(15) In practice what this means is that anybody who has people they are responsible for, needs to look for circumstances that might foster unlawful discrimination, sexual harassment and bullying and take action to minimise the risks of it occurring.

(16) Indications that such behaviour might be occurring may include:

- a. Complaints (note that these do not need to be formal complaints; once a leader becomes aware of the potential they have an obligation to act).
- b. High turnover of staff.
- c. Increased levels of sick leave.
- d. Conflict —People that suddenly become withdrawn or who are isolated.
- e. The existence of rude or inaccurate rumours about any person.
- f. Evidence of interference with another's work.

(17) Assistance with this process can be obtained from People and Culture Business Partners.

Encourage Reporting

(18) Typically people will be reluctant to formally complain. Research indicates that the majority of people will move from the work environment in preference to putting in a formal complaint. The implications of this are that leaders of people need to:

- a. Foster environments and create avenues that make it safe to complain.
- b. Respond quickly and constructively when they become aware of signs and symptoms rather than waiting for a formal complaint. Addressing issues early is a major determinant of success in minimising harm.
- c. Be alert to the nature and health of interpersonal interactions.

Section 5 - Procedures

Roles/Responsibilities

Roles	Responsibility
Student	<ul style="list-style-type: none">- Comply with the University's discrimination, harassment and bullying policies.- Report any observations or incidents of potential discrimination, harassment and bullying to the Dean of the appropriate College or the Student Matters Office.
Staff	<ul style="list-style-type: none">- Comply with the University's discrimination, harassment and bullying policies.- Report any observations or incidents of potential discrimination, harassment and bullying to their Manager or People and Culture.
Managers/supervisors	<ul style="list-style-type: none">- Model appropriate behaviour in the workplace.- Take proactive steps to address any potential discriminatory, harassing or bullying behaviour.
Student Matters Office	<ul style="list-style-type: none">- Provide advice to students regarding the complaint management process.- Assist the relevant Dean assess the complaint at an initial stage.- Case manage complaints about students.- Liaise with People and Culture regarding complaints about staff.
Student Advocacy	<ul style="list-style-type: none">- Provide advocacy and support to students during the discrimination, harassment and bullying complaint management process.
People and Culture	<ul style="list-style-type: none">- Provide advice to staff regarding the complaint management process.- Assist the relevant manager assess the complaint at an initial stage.- Case manage complaints about staff.- Liaise with the Student Matters Office regarding complaints about students.
DHB Contact Officer	<ul style="list-style-type: none">- Provide information and support to staff regarding alleged discrimination, harassment or bullying behaviour.

Complaint/issue resolution process

(19) Discrimination, sexual harassment and bullying behaviour may be displayed by students and staff, and may occur between students, between staff, and between students and staff in both directions.

(20) Any staff member or student who perceives they are being discriminated against, sexually harassed or bullied, or observes such behaviour by a staff member or student, has the right to take action and make a complaint.

Complaints by students

(21) All complaints by students regarding discrimination, harassment or bullying will be handled in accordance with the student complaint process as established in the [Student Complaints Procedure](#) .

(22) If the complaint involves a staff member, the Student Matters Office will liaise with People and Culture throughout the complaint process to ensure that the process complies with the University's employment obligations to staff.

Complaints by staff

(23) Local level resolution by staff member

- a. Staff who feel they have been discriminated against, sexually harassed, or bullied, are encouraged to talk to their manager if this is appropriate in the circumstances and to seek information and support.
- b. The University has a number of trained Discrimination Harassment and Bullying ("DHB") contact officers that staff are encouraged to speak to.
- c. DHB Contact officers can assist by:
 - i. Listening empathetically and impartially to staff concerns about matters that may constitute discrimination, harassment or bullying;
 - ii. Clarifying what sorts of behaviour may amount to discrimination, harassment and bullying;
 - iii. Providing information and guidance about the policy and procedures for dealing with discrimination, harassment and bullying concerns;
 - iv. Exploring and encouraging possible strategies by which staff can act to resolve the issue/s themselves.
- d. Staff are also encouraged utilise the free and confidential counselling services available through the University, which can be accessed 24 hours a day on 1300 EAP AT VU (1300 327 288).

(24) University managed process

- a. If a complainant is unable to raise the behaviours with the person concerned directly, they should raise their concerns with their manager. Where the subject of their complaint is their manager/supervisor, their next line manager is the appropriate person to speak to. Staff may also directly approach People and Culture.
- b. If any other person observes potential discrimination, harassment or bullying behaviour, they should also report their concern to either their manager/supervisor, or People and Culture.
- c. Compulsory Reporting: Victoria University aims to adopt a proactive, risk management approach to discrimination, harassment and bullying. In order to that these risks/hazards are properly identified, assessed and eliminated, managers/supervisors must report any complaints they receive, or any concerns they may have, to People and Culture as soon as practicable.

(25) Assessing the behaviour

- a. Once the alleged behaviour has been reported, the relevant manager/supervisor should conduct a preliminary fact-finding inquiry to assess whether the alleged behaviour is capable of constituting unlawful discrimination, sexual harassment or bullying behaviour. The manager/supervisor should seek advice from People and Culture on the characterisation of the alleged behaviour and the appropriate response (discussed in more detail below), given all the circumstances of the particular case.
- b. If the behaviour reported and the preliminary facts support a finding that the reported behaviour may be capable of constituting unlawful discrimination, sexual harassment, or bullying, steps must be taken to address the behaviour as soon as practicable.

(26) Addressing the alleged behaviour

- a. Every potential discrimination, harassment or bullying situation is different and it is therefore important that the University adopts a flexible approach to resolution. Depending on the particular circumstances, the alleged behaviour may be addressed in one or more of the following ways:
 - i. Intervention by manager/supervisor;

- ii. Mediation;
 - iii. Investigation;
 - iv. Disciplinary action.
- b. Where possible the responses to the alleged behaviour will be undertaken sequentially, however, this may not be possible or appropriate in all cases. The University reserves the right to employ the most appropriate response without being constrained to explore local level resolution if the nature or seriousness of the matter means that this would be inadvisable or increase risk to individuals or the University.

(27) Intervention by manager/supervisor

- a. Intervention by a supervisor/manager will generally be used in the first, early and/or low-impact stages of a potential discrimination, harassment or bullying issue.
- b. Intervention by the relevant manager/supervisor may involve one or more of the following:
 - i. restating to the team/organisational unit that discrimination, harassment or bullying is unacceptable and will not be tolerated. This should be done in a way that does not identify the parties or any particulars of the case;
 - ii. meeting with the alleged respondent to appropriately communicate that behaviours akin to those being alleged are not acceptable and, if occurring, should be stopped immediately;
 - iii. organising appropriate training/staff development;
 - iv. suggesting mediation to the parties (discussed in more detail below).
- c. The manager/supervisor should contact People & Culture for advice and assistance before commencing any intervention. Once intervention has commenced, they should inform the complainant of the action taken to resolve the alleged reported behaviour.
- d. The manager/supervisor should review the situation within a reasonable period of time by speaking to the complainant about whether the situation has improved. If the situation has not improved, other methods of resolution should be explored.

(28) Mediation

- a. Mediation will generally be employed in cases involving interpersonal conflict, where the parties' relationship is ongoing and/or where the parties appear capable of reaching an agreed outcome.
- b. What is mediation?
 - i. Mediation is a voluntary process where, with the help of an experienced neutral person (the 'mediator'), the parties discuss the complaint/issues, try to find possible solutions and ideally resolve the issues to the mutual satisfaction of both parties.
 - ii. The mediator will be appointed by People and Culture in conjunction with the relevant manager/supervisor.
 - iii. The mediator generally determines the process and may meet with the parties separately, together or a combination of both. The role of the mediator is not to make formal findings about what did, or did not, occur, but rather to assist the parties reach an agreed solution.
 - iv. The mediation is confidential, though the mediator will report the outcome to People and Culture and the relevant manager/supervisor.
 - v. The manager/supervisor should review the situation within a reasonable period of time by speaking to the complainant about whether the situation has improved. If the situation has not improved, other methods of resolution should be explored.

(29) Investigation

- a. Where early intervention or mediation has not resolved the situation or is inappropriate (for instance where the alleged behaviour is serious) the complaint/concern may be investigated by an independent (internally or externally appointed) person.
- b. In the event that the matter is referred for investigation, the investigator will:
 - i. Conduct the investigation with due regard to procedural fairness, timeliness, and the individuals safety and well-being;
 - ii. Notify the parties of the investigation;
 - iii. Seek sufficient particulars of the alleged conduct to enable the complaint/concern to be factually investigated;
 - iv. Provide the respondent with a summary of allegations and/or a statement of the alleged conduct;
 - v. Provide the respondent with an opportunity to respond to the complaint and/or alleged conduct;
 - vi. Interview the parties and, where necessary, any witnesses;
 - vii. Review any relevant documentation; and
 - viii. Prepare a report setting out the complaint, how the investigation was conducted, relevant facts, and findings, and present this to the manager or supervisor in control as well as to People and Culture.
- c. The manager or supervisor will then make a decision based on the investigation report as to whether the alleged conduct is proven, proven in part or not proven. They may also make a determination that the complaint is frivolous, vexatious, or lacking in substance.
- d. The decision, along with a summary of reasons for making the decision and a clear statement of what actions will follow, will be provided to the complainant, the respondent/s, and People and Culture.
- e. The actions following the decision may include, but are not limited to:
 - i. Training in the University's policies/procedures and/or codes of conduct.
 - ii. Disciplinary action under the appropriate staff or student disciplinary procedures.
 - iii. A direction that processes/procedures be altered or systems of work reviewed.
 - iv. Further monitoring.
 - v. A referral to mediation.
- f. The University will review the situation within a reasonable period of time by speaking to the complainant about whether the situation has improved. If the situation has not improved, other methods of resolution should be explored.

(30) Disciplinary action

- a. The University may, at any stage, initiate a disciplinary process under the appropriate disciplinary procedures where the allegations are sufficiently serious and/or where there are reasonable grounds to demonstrate a case to answer.
- b. The decision to initiate disciplinary action will be made by the delegated officer in conjunction with People and Culture and will be carried out in accordance with the relevant enterprise agreement.

Section 6 - Guidelines

(31) Nil

Status and Details

Status	Historic
Effective Date	18th October 2018
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