

Bullying Prevention and Management Procedure

Policy Code: CG1053

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Purpose

To affirm the University's commitment to providing and maintaining a healthy and safe environment free from bullying and/or violence and/or threats of violence and/or restrictions to academic freedoms or freedom of speech.

This procedure ensures that appropriate processes are in place to effectively manage allegations of bullying and/or violence and/or threats of violence and/or restrictions to academic freedoms or freedom of speech.

Scope

1. This procedure applies to all Workers, as defined by the Fair Work Act 2009, and other members of the University engaged in activities reasonably connected to their employment or other activities with the University. Such activities may extend beyond University premises. For example, use of social media, field trips or excursions organised by the University, staff functions both during and after working hours and Workers attending conferences.
2. Reasonable management action, carried out in a fair way, is not bullying. Supervisors have a right to direct the way work is carried out, following discussion with the worker, and to monitor and give feedback on performance, giving due consideration to the manner in which this is done.
3. This procedure does not cover situations where a worker is dissatisfied with actions taken by their manager that are about legitimate and reasonable:

- Disciplinary action;
 - Setting of performance goals, standards and deadlines in consultation with Workers and after considering their respective skills and experience;
 - Allocating work to a Worker in a transparent way;
 - Rostering and allocating working hours;
 - Transfer of a Worker for legitimate and explained reasons;
 - Decisions not to select a Worker for promotion, following a fair and documented process;
 - Informing a Worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
 - Informing a Worker about inappropriate behaviour in an objective and confidential way;
 - Implementing organisational changes or restructuring; and
 - Performance management processes.
4. Subject to point 5 below, if a Worker has a complaint, which could be considered under a number of different University procedures, the Worker must choose which procedure they would like to use to have the matter resolved. A Worker is not able to make applications under different procedures in relation to the same subject matter or incident.
 5. If a Worker lodges a WorkCover claim that involves allegations of bullying and/or violence and/or threats of violence, the relevant portion of the WorkCover claim will be taken to be a written complaint in accordance with the Investigation Process of this Procedure.
 6. The University will be guided by the following principles in attempting to resolve issues of bullying and/or violence and/or threats of violence:
 - ensure so far as reasonably practicable the health and safety of all parties;
 - be fair and equitable;
 - ensure the Principles of Natural Justice are upheld;
 - maintain privacy and confidentiality (so far as reasonably practicable);
 - aim to resolve the issue in a timely manner; and
 - ensure so far as reasonably practicable people are not victimised as a result of using this Procedure.

In some circumstances, the seriousness of allegations or information provided may place the University under a legal obligation to investigate beyond that which the Worker intends or wishes, in which case the University may initiate a complaint or progress a complaint of its own volition.

Definitions

Term	Definition
Academic freedom:	<ul style="list-style-type: none"> • The freedom of academic staff to teach, discuss, exhibit artistic works or public performances, research, as well as disseminate and publish the results of their research • The freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research • The freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled • The freedom of academic staff, without constraint imposed by reason of their employment by the university, to make lawful public comment on any issues in their personal capacities

Term	Definition
	<ul style="list-style-type: none"> The freedom of academic staff to participate in professional or representative academic bodies The freedom of students to participate in student societies and associations
Bullying:	<p>As defined by the Fair Work Act 2009 bullying is:</p> <p><i>"repeated, unreasonable behaviours directed towards a worker or a group of workers that creates a risk to health and safety".</i></p> <p>Examples of workplace bullying may include but are not limited to:</p> <ul style="list-style-type: none"> abusive, insulting or offensive language; behaviour or language that frightens, humiliates, belittles or degrades; teasing or regularly making someone the brunt of practical jokes; spreading gossip, rumours and/ or innuendo. <p>Workplace bullying may also take more subtle or covert behaviours including:</p> <ul style="list-style-type: none"> deliberately excluding or isolating a person from normal workplace activities; tampering with personal effect or work equipment; intimidating someone through inappropriate personal comments, belittling opinions or unjustified criticisms; overloading a person with work; setting timelines that are difficult to achieve or constantly changing deadlines; setting tasks that are unreasonable or beyond a person's ability; deliberately isolating a person or ignoring them; deliberately denying access to information relevant to the person's duties.
Fair Work Commission (FWC):	<p>The Fair Work Commission is the national workplace relations tribunal. It is an independent body with power to carry out a range of functions relating to:</p> <ul style="list-style-type: none"> the safety net of minimum wages and employment conditions; enterprise bargaining; industrial action; dispute resolution; termination of employment, and other workplace matters.
Freedom of speech	<p>The freedom of staff, students, and invited visitors to the University to express lawful opinions publicly, without undue restriction.</p>
Independent Third Party:	<p>An independent third party is:</p> <ul style="list-style-type: none"> a person employed within the University who is independent of the School/ Section and who has sufficient seniority and experience to facilitate a discussion between workers; or a person external to the University who is suitably qualified and experienced to facilitate a discussion between workers.

Term	Definition
Nominated Investigator:	<p>A person employed within the University who is independent of the School/ Section and who has sufficient seniority and experience to undertake an investigation and make an impartial determination of the facts of the matter based on the balance of probabilities; or</p> <p>A person external to the University who is suitably qualified and experienced to undertake workplace investigations.</p>
Supervisor:	A worker who has designated responsibility for managing and/ or overseeing the performance and workplace behaviour of other workers.
Other Members of the University:	Members of the Council; members of any board, committee or other body established by or constituted under the University Statutes and Regulations; members of the Professoriate, visiting teaching or research staff and academic associates appointed under the University Statutes and Regulations.
Prima Facie:	The term <i>prima facie</i> is used to describe the apparent nature of something upon initial observation. The term generally is used to describe two things: the presentation of sufficient evidence to support the claim (a prima facie case), or a piece of evidence itself (prima facie evidence).
Principles of Natural Justice:	<p>Involves all of the following elements:</p> <ul style="list-style-type: none"> • the right to a fair and prompt hearing; • presumption of innocence until proven guilty; • the right to attend hearings with a friend or support person, if required; • the opportunity for all parties involved to be heard; • the respondent having full knowledge of the nature and substance of the complaint; • the complainant not determining the outcome, but may be a party to it; • the right to an independent, unbiased decision-maker, and • a final decision that is based solely on the relevant evidence.
Reasonable Management Action:	<p>Reasonable management action can include:</p> <ul style="list-style-type: none"> • disciplinary action; • setting reasonable performance goals, standards and dealing in consultation with workers and after considering their respective skills and experience; • allocating work to a worker in a transparent way; • fairly rostering and allocating working hours; • transferring a worker for legitimate and explained operational reasons; • deciding not to select a worker for promotion, following a fair and documented process; • informing a worker about inappropriate behaviour in an objective and confidential way; • implementing organisational changes or restructuring, and • performance management processes.
Repetition:	Refers to the persistent nature of the behaviour, not the specific form the behaviour takes. Behaviour is considered "repeated" if an established and consistent pattern can be identified over a period of time.

Term	Definition
Senior Management:	The Vice-Chancellor, Deputy Vice-Chancellors and the Chief Operating Officer.
Staff Member (Worker):	Any person who is an employee of the University at the time of the alleged incident(s). This includes full-time, part-time, sessional or casual staff.
Support Person:	A person of the staff member's choice who is there to provide emotional support but who is not a practising solicitor or barrister.
University Grievance Officer:	An officer of the University employed within the Corporate Governance Directorate of the University.
Unreasonable Behaviour:	Refers to behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, undermine or threaten. In this context, the hypothetical reasonable person does not require total knowledge of every aspect of the situation - rather this person knows as much as the alleged bully could reasonably be expected to know.
Victimisation:	Means to threaten or punish someone or to treat them less-favourable, in response to an actual or possible allegation or complaint.
Violence or threats of violence:	<p>Violence and aggression is defined as any incident where a member of the University is abused, threatened or assaulted in circumstances arising out of, or in the course of, their employment or other activities at the University.</p> <p>Within this definition:</p> <ul style="list-style-type: none"> • threat means a statement or behaviour that causes a person or a third party to believe they are in danger of being physically attacked. It may involved an actual or implied threat to safety, health or wellbeing; and • physical attack means the direct or indirect application of force by a person to the body of, or clothing or equipment worn by, another person, where that application creates a risk to health and safety. <p>Neither intent nor ability to carry out the threat is relevant. The key issue is that the behaviour creates a risk to health and safety.</p> <p>Examples of occupational violence and aggression include, but are not limited to verbal, physical or psychological abuse, punching, scratching, biting, grabbing, pushing, threats, stalking, attack with a weapon, throwing objects/ furniture, sexual harassment or assault, and any form of indecent physical contact.</p> <p>Occupational violence need only be a single incident or circumstance.</p>
Worker:	<p>As defined by FWC:-</p> <p>A worker is an individual who performs work in any capacity including but not limited to:</p> <ul style="list-style-type: none"> • an employee*; • a contractor; • a sub-contractor; • an out-worker; • an apprentice; • a trainee;

Term	Definition
	<ul style="list-style-type: none"> • a student gaining work experience, and • a volunteer. <p>* An employee includes full-time, part-time, sessional or casual staff who hold/ held a contract of employment with the University at the time the alleged behaviours occurred.</p>

Actions

1. Violence and Threats of Violence

1. Any incident where a worker or other member of the University is abused, threatened or assaulted in circumstances arising out of, or in the course of, their employment or other activities at the University must be reported immediately to the Manager, Risk Health and Safety and the relevant Supervisor or Human Resources or a First Aid Officer or Health and Safety Representative. A written incident report should be taken immediately (or as soon as is reasonably practicable) and any supporting documentation provided.
2. Upon receipt of the initial report the Manager, Risk Health and Safety will commence a preliminary investigation as soon as is reasonably practicable and take all appropriate steps to secure the scene and/ or any relevant evidence for referral to the Director, Human Resources.
3. If an injury has been sustained as a result of an incident, it is strongly recommended that medical advice is sought and a report is made to the police.
4. If the report is taken by the Supervisor/First Aid Officer or Health and Safety Representative it must also be reported immediately to the Director, Human Resources and the Manager, Risk Health and Safety for action (refer to point 2. above).
5. All reports or violence will be recorded by the Manager, Risk Health and Safety the University's confidential Incident Reporting Database.
6. Instances of alleged violence or threats of violence may result in the alleged perpetrator (if a staff member of the University) being summarily suspended from the workplace while an investigation takes place. This decision will be made by the Vice-Chancellor in accordance with relevant University industrial agreements.

Investigation Process

Action	Detail	Responsible
Immediately on receipt of a report of alleged violence:	<ol style="list-style-type: none"> 1. Recommend and implement actions as necessary to address any immediate concerns regarding individuals' safety, well-being and continued participation in the workplace (in consultation with the Manager, Risk Health and Safety). 2. Notify the alleged respondent(s) of any actions that will directly impact on them, including a brief outline of the allegations made. 	Director, Human Resources (or nominee).
Within 48 hours of a report of alleged occupational violence:	<ol style="list-style-type: none"> 1. Review the information provided; 2. Refer the matter for investigation by the University; or 	Director, Human Resources (or nominee).

Action	Detail	Responsible
	3. Refer the matter for investigation by an external agency. The investigation will follow the process set out in Part 2.5 of this procedure	

2. Bullying

A worker or other member of the University community who experiences bullying is encouraged to use the University's processes in the first instance.

2.1 Advice and Support

A worker or other member of the University community who experiences bullying may seek advice from:

- Their Supervisor/Dean/Head of School/Executive Director or Director(where appropriate); or
- Human Resources; or
- University Grievance Officer.

Advice can include:

- Clarifying whether the behaviour may constitute bullying, violence or victimisation;
- The types of evidence/information/supporting documentation required;
- Providing information on the policy and procedure;
- Advising of their rights under relevant legislation;
- Encouraging the worker to seek the type of support they need and providing referrals as appropriate; and
- Exploring strategies to resolve the matter.

Where all other options have been exhausted, advising of options available, including making a complaint to an external body.

Support

A worker who is an employee of the University and who experiences bullying may seek professional support from the Employee Assistance Program (EAP).

[Employee Assistance Program](#)

A Supervisor/Dean/Head of School/Executive Director or Director who has been asked to assist with an informal resolution must seek advice from Human Resources. Additional support can also be given through the EAP's Manager Assist (refer above link).

Supporting documentation:

A worker or other member of the University who reasonably believes they are being subjected to bullying behaviours should endeavour to keep the following information:

- A diary of the alleged bullying incidents, including dates, times, witnesses etc.
- Assemble, where practical, any objective evidence of the bullying, including the names of witnesses.

The University's EAP provider has a document to assist in documenting bullying behaviours and complaints

[Documenting Bullying Behaviours](#)

Removal from the work situation or alternative work arrangements:

The University may determine, at its discretion that any person who is involved in a bullying complaint be relocated to another work area within the University while the complaint is investigated. The decision to relocate any party to a complaint does not imply there is a case to answer or that any conduct complained about has occurred. Any determination to relocate will be made on the basis of the University's obligations under relevant Occupational Health and Safety legislation.

A worker or other member of the University may request to be relocated until the matter is resolved. This request should be in writing to their Supervisor/Dean/Head of School/Executive Director or Director. If a complaint is against the Supervisor/Dean/Head of School/Executive Director or Director, the request can be made to the Director, Human Resources (or nominee) together with reasons for the request.

When considering relocation of any party to a bullying complaint, the University will take into account matters such as the work being undertaken, if this can reasonably be done from an alternative location, reporting relationships, the level of interaction between the parties and the confidentiality of the party in being relocated.

In some circumstances the University may choose to suspend a worker from the workplace while the complaint is being investigated. This will be in accordance with the requirements of the relevant industrial agreement.

Actions:

The University will take all complaints of alleged workplace bullying seriously. As far as reasonably possible, workers should attempt to resolve issues of workplace bullying at the local level however, at any stage a worker can refer this matter to the Director, Human Resources (or nominee) who may do any of the following:

- Refer the matter back to the Supervisor for resolution under the Local Process; or
- Recommend the Alternative Resolution process be followed; or
- Investigate the complaint under the Investigation Process.

2.2 Personal Resolution

This is not a compulsory process. A worker can move immediately to the Local Resolution, Alternative Resolution or Investigation process.

Following an incident of perceived workplace bullying a worker may seek to resolve the issue directly with the other party concerned. Any meeting with the person(s) who is/are allegedly bullying should be respectful, civil and where possible objective.

Confidential individual coaching and advice and support can be sought via the University's EAP program for workers who are employees of the University to assist them in resolving the matter independently.

If requested and with the agreement of the other party to the issue, the assistance of an agreed independent third party (as defined) can be arranged. The parties wishing to have a third party present should contact their Supervisor/Dean/Head of School/Executive Director or Director or Human Resources (or nominee) to arrange this.

If an independent third party is agreed to by both the worker and respondent to the complaint the Alternative Resolution Process will be followed (Refer part 2.4 of this Procedure).

2.3 Local Resolution Process

Workers who wish to commence a Local Resolution Process must advise their Supervisor. If the Supervisor is the subject of the complaint, the request can be referred to the Supervisor's Supervisor (refer Definitions).

Process	Action/Timeframe
<p>Speak with the worker regarding the issues and gather any relevant information the worker has compiled and understand what resolution strategies the worker may be seeking.</p>	<p>As soon as is practicable, or within two working days of receipt of request.</p>
<p>Advise the worker of the Local Resolution Process, timeframes, and of possible outcomes including but not limited to:</p> <ul style="list-style-type: none"> • a clarification by the respondent of a misunderstanding; and/or • an apology; and/or • a facilitated discussion or mediation between the parties; and/or • an agreed plan of action to avoid future incidents. 	<p>Within the initial meeting.</p>
<p>Review this policy and procedure and seek advice from Human Resources to:</p> <ul style="list-style-type: none"> • determine if the matter should be dealt with under this procedure or another University procedure; • determine if, prima facie, the matter meets the definition of bullying as described in this procedure; • determine if the matter is reasonably able to be resolved at the Local or Alternative Resolution stages; • determine the required actions by Supervisor/Head of School or Dean; and • determine record keeping requirements. 	<p>Within five working days of speaking to the worker.</p>
<p>If the Supervisor/Dean/Head of School/Executive Director or Director believes the matter, based on the information provided is of such a serious nature that it may fall under misconduct or serious misconduct they should be immediately seek advice from the Director, Human Resources (or nominee).</p>	
<p>If it is determined that the subject matter of the complaint does not constitute bullying in accordance with the definition, the worker can be referred to:</p> <ul style="list-style-type: none"> • the informal procedure of the Staff Grievance Procedure; or • the formal procedure of the Staff Grievance Procedure; or • the Discriminatory and Sexual Harassment Complaint Procedure. 	<p>If the matter concerns aspects which may constitute unlawful discrimination or harassment as defined under the University's Equal Opportunity and Valuing Diversity Policy, the Manager, Equity and Equal Opportunity should be consulted.</p>
<p>If the subject matter does fall within the definition of bullying, and can reasonably be resolved at the Local or Alternative Resolution stages of this procedure, the Supervisor/Dean/Head of School/Executive Director or Director will notify the respondent that:</p> <ul style="list-style-type: none"> • a complaint has been received; • the need to meet to discuss the matter; • their right to bring a support person to the meeting; and • arrange a meeting with the Respondent within five working days of notification of the complaint. 	<p>As soon as practicable or within five working days of seeking advice from HR.</p>
<p>At this meeting the Supervisor/Dean/Head of School/Executive Director or Director must:</p> <ul style="list-style-type: none"> • convey the worker's concerns and proposed resolution(s); • reiterate the University's policy(s), including the requirements for confidentiality and to not victimise a person making the complaint; and 	<p>The respondent should be given five working days from the date of the meeting to provide any supporting documents or other relevant information.</p> <p>At this stage it is the Supervisor/Dean/Head of School/Executive Director or Director's</p>

Process	Action/Timeframe
<ul style="list-style-type: none"> • provide the respondent with an opportunity to discuss the concerns that have been raised and give their version of events and provide relevant information or documentation to support their version of events; and • advise the respondent of possible outcomes to the complaint if it is proven. 	responsibility to take all practicable steps to ensure that the alleged behaviour ceases and will not re-occur.
<p>Within five working days of receiving the respondent's information, the Supervisor/Dean/Head of School/Executive Director or Director will consider all the relevant documentation relating to the complaint and determine an outcome.</p> <p>Such steps may include:</p> <ul style="list-style-type: none"> • a clarification by the respondent of a misunderstanding; and/or • an apology; and/or • a facilitated discussion, individual conflict coaching and/ or mediation between the parties that includes the development of an action plan to avoid future incidents; or • referral of the matter to Human Resources where the documentation and information provided indicates that misconduct or serious misconduct may have occurred; or • referral to Human Resources for investigation. 	<p>Supervisor/Dean/Head of School/Executive Director or Director should seek advice and support from Human Resources.</p> <p>If a facilitated discussion, individual conflict coaching and/or mediation is agreed, the Supervisor/Dean/Head of School/Executive Director or Director should follow the steps under the Alternative Resolution Process.</p>
<p>Within five working days of determining an outcome, the Supervisor/Dean/Head of School/Executive Director or Director will advise both the worker and respondent of the outcome and:</p> <ul style="list-style-type: none"> • advise of actions to avoid future incidents as noted above (if appropriate); and/or • that the matter is to be sent for facilitated discussion, individual conflict coaching and/or mediation; or • the matter is to be referred to Human Resources to be dealt with under the misconduct/serious misconduct clauses of the relevant industrial instrument or investigation. 	<p>The Supervisor/Dean/Head of School/Executive Director or Director should advise the worker and respondent of the decision verbally and also in writing. Both the worker and respondent should be advised they are able to bring a support person to any meeting that is arranged to convey the decision.</p>
<p>It is the Supervisor/Dean/Head of School/Executive Director or Director's responsibility to ensure the resolution steps at this stage are completed.</p>	
<p>The Supervisor/Dean/Head of School/Executive Director or Director must accurately document each stage of this process including the steps taken and discussions held with both parties and any outcomes.</p>	
<p>The Supervisor/Dean/Head of School/Executive Director or Director must note if the complaint has been resolved at the local level or if the matter has been referred to Human Resources.</p>	
<p>An electronic copy of this information must be provided to Human Resources, the Supervisor/Dean/Head of School/Executive Director or Director must also retain this information in a confidential file within the School/Directorate.</p>	

The Local Resolution process may also highlight the need for further education within the area or the implementation of a local strategy that raises awareness of appropriate behaviour within the work environment. It is the Supervisor/Dean/Head of School/Executive Director or Director's responsibility to ensure that necessary training or development is completed in a timely manner.

2.4 Alternative Resolution

The Alternative Resolution process may provide another, less formal means to resolve a range of workplace complaints including allegations of bullying.

The processes can be implemented in the following circumstances:

- If a worker requests Alternative Resolution as part of the Personal Resolution Process in this procedure; or
- If resolution cannot be achieved through the Personal or Local Process in this procedure; or
- If a Supervisor/Dean/Head of School/Executive Director or Director request Alternative Resolution as part of a Local Resolution Process in this procedure; or
- If the Director, Human Resources determines Alternative Resolution is an appropriate means to try to resolve a complaint; or
- Where the complaint, prima facie, does not meet the definition of bullying and a worker is referred to another University procedure as a means of resolution as noted below.

Requests should be in writing to Human Resources, detailing the nature of the complaint and be accompanied by documentation outlining the alleged instances of bullying, name(s) of person(s) involved and any other material (ie emails, letters etc.) relevant to the allegations and steps already taken to resolve the matter.

The Director, Human Resources (or nominee) will review the request and information. If it is determined that the subject matter of the complaint does not constitute bullying in accordance with the Policy, the complainant can be referred to:

- the Informal Procedure of the [Staff Grievance Procedure](#); or
- the Formal Procedure of the [Staff Grievance Procedure](#); or
- the Harassment Complaints Procedure.

Alternative Resolution process:

Action	Detail	Responsible
Where possible, within 10 working days of receiving a request:	The Director, Human Resources (or nominee) will review the request and information and determine if it is appropriate to proceed under this procedure or refer to another University procedure or process.	Director, Human Resources (or nominee)
Where possible, within 10 working days of the decision to continue under this procedure:	An independent practitioner will be appointed. S/he will be provided with a copy of the complaint and any documentation relevant to the allegations and a copy the relevant policy and procedure or process.	Director, Human Resources (or nominee)
Where possible, within 10 working days of appointment:	The independent practitioner will make contact with the individual parties to make introductions, talk about the process to be undertaken and arrange to have an individual meeting to discuss the issues.	Appointed Practitioner If the AR process is unlikely to proceed the AR practitioner will advise the parties and the Director, Human Resources (or nominee).

Action	Detail	Responsible
	<p>Parties to this process may bring a support person with them to any meetings.</p> <p>It is at this point where the independent practitioner can make a recommendation to the Director, Human Resources (or nominee) as to the likely success or not of an AR process and if it is viable to proceed.</p>	
<p>If the AR process is to proceed:</p> <p>As soon as practicable but not longer than 20 working days:</p>	<p>The independent practitioner will arrange a suitable date, time and venue for the AR process.</p>	<p>Independent practitioner, in liaison with the nominee of the Director, Human Resources (or nominee).</p>
<p>On the day of the AR Process:</p>	<p>The independent practitioner will meet individually and collectively with each party to the dispute. Parties to the process may bring a support person with them to any meetings.</p> <p>With the agreement of both parties a written undertaking between the parties specifying agreed outcomes may result from the session.</p>	<p>AR Practitioner</p>
<p>The University may request a written summary of the relevant background, issues and comments if the process was successful or not from the AR Practitioner. Any individual undertakings will not be documented without the agreement of the parties. Any such document received will be kept confidentially in Human Resources.</p>		

The request for an AR practitioner to be involved does not imply there is a case to answer or that any conduct complained of has occurred. It is not the AR practitioner's role to make a formal finding but to assist the parties to reach a mutually agreed resolution to the problem, where possible.

2.5 Investigation of Complaints

1. This step may be commenced where a complaint of bullying cannot be resolved through the Personal, Local and/or AR processes noted above or one or more parties has lodged a written complaint requesting an investigation.
2. Requests for investigation should include details of any processes undertaken prior to making this request (if applicable) and any documentation relevant to the complaint.
3. The written request for an investigation can be made by either the Worker or the Respondent and should be forwarded to the Director, Human Resources (or nominee) within 5 working days from the date the unsuccessful Local Resolution or other AR process was completed.
4. The Director, Human Resources (or nominee) may write to the requestor in order to obtain further or more detailed information.
5. If the complaint includes aspects which might constitute unlawful discrimination or harassment as defined under the University's [Equal Opportunity and Valuing Diversity Policy](#), the Director, Human Resources (or nominee) will consult with the Manager, Equity & Equal Opportunity.

6. Where possible, within 10 working days of receiving all relevant documentation pertaining to the complaint, the Director, Human Resources (or nominee) will determine whether the subject matter of the complaint, prima facie, falls within the bullying definition.
7. If it is determined that the subject matter of the complaint does not constitute bullying in accordance with the Policy, the complainant may be referred to:
 - a. the Informal Procedure of the [Staff Grievance Procedure](#); or
 - b. the Formal Procedure of the [Staff Grievance Procedure](#); or
 - c. the Harassment Complaints Procedure; or
 - d. the Alternative Resolution Process as described in this procedure.
8. If the subject matter of the complaint, prima facie, meets the bullying definition, the Director, Human Resources may:
 - a. Consult with any other person they determine appropriate;
 - b. Refer the complainant back to the Supervisor for Local Resolution or arrange for the Alternative Resolution process to commence if appropriate and/or this process has not been attempted;
 - c. Refer the matter for internal investigation by the University;
 - d. Refer the matter for investigation by an external agency
 - e. Decline to investigate a complaint if it frivolous, vexatious, misconceived or lacking in substance;
 - f. Decline to investigate the complaint if more than 12 months has elapsed between the event complained of and the complaint notification and there is no good cause or clear link to current behaviour to address the complaint after this delay;
 - g. Recommend any actions the Director, Human Resources (or nominee) deems as necessary to address any immediate concerns regarding an individual's safety, well-being and participation in work in accordance with this procedure.
9. The Director, Human Resources (or nominee) will write to the Worker advising of their decision and the next steps.
10. If it is determined that an investigation is to commence, the Director, Human Resources (or nominee) will notify any persons specifically mentioned in the complaint of:
 - i. any matters directly involving them, including prima facie allegations or information that is of concern to the University;
 - ii. this process and the name and contact details of an HR nominee overseeing this process;
 - iii. their right to an impartial investigator nominated by the Director, Human Resources (or nominee);
 - iv. their right to respond and the appropriate manner of response. This will usually be in writing and through cooperation with the investigator;
 - v. the need to avoid any confrontation or actions that may be perceived to aggravate the situation and the need to act prudently, confidentially and sensitively in matters surrounding the complaint.
11. Where possible, the Director, Human Resources (or nominee) will promptly nominate an investigator independent to the parties and provide them with all documentation and information that is relevant to the complaint. The Director, Human Resources (or nominee) will also notify the Nominated Investigator of the HR nominee who will act as the liaison between the parties and the investigator.

2.6 The Investigation Process

The Nominated Investigator will conduct the investigation with regard for procedural fairness and natural justice. The investigation will be undertaken in a timely manner with due regard for the privacy, safety and well-being of all individuals involved. Some discretion is required to make allowances for staff absences etc. when arranging meetings.

Determination whether the allegations are proven will be based on the evidence provided and the balance of probabilities.

The Human Resources nominee will oversee the progress of the investigation and provide administrative support for the Nominated Investigator.

Action	Detail	Responsible
As soon as practicable after appointment the nominated investigator will:	<ol style="list-style-type: none"> 1. Contact the Worker(s) and explain the processes to be undertaken during the investigation and expected timelines. 2. Interview the Worker(s) (taking into account any other external investigations that may be in progress, e.g. police) and formulate specific allegations. 3. Collect any additional relevant evidence from the Worker(s). 4. Identify any relevant witnesses for the Worker and gather contact information. 	Nominated investigator.
As soon as practicable after interviewing the Worker the nominated investigator will:	<ol style="list-style-type: none"> 1. Contact the Respondent(s) and explain the processes to be undertaken during the investigation and expected timelines. 2. Provide written notice of the specific allegations to the Respondent in sufficient detail to allow them to understand the nature of the allegations and to formulate a response. 3. Give the Respondent(s) an opportunity to seek advice and respond to the allegations in writing within 10 working days; 4. Interview the Respondent and gather details of any relevant witnesses or other relevant information from the respondent. 	Nominated Investigator
As soon as practicable after interviewing the Worker and the Respondent:	<ol style="list-style-type: none"> 1. Notify witnesses in writing of their involvement in the investigation; 2. Interview the witnesses and gather any relevant information they may have; 3. Seek any further information, documents or other evidence the investigator considers necessary to establish the circumstances of the complaint; 4. Follow up with both the Worker(s) and Respondent(s) to 	Nominated investigator.

Action	Detail	Responsible
	clarify any contradictory information.	
Where possible, within 20 working days of completing the investigation:	The investigator will provide a confidential report for consideration by the Director, Human Resources (or nominee).	Nominated Investigator
Where possible, within 10 working days of receiving the report from the investigator:	The Director, Human Resources (or nominee) will consider the findings of the report and formulate recommendations for the Vice-Chancellor's consideration.	Director, Human Resources (or nominee)
Where possible, within 10 working days of receiving the Director, Human Resources recommendation the Vice-Chancellor will:	Consider the recommendations and take such action as the Vice-Chancellor deems appropriate. Outcomes may include any one or more of the following outcomes: <ul style="list-style-type: none"> • That the complaint was not substantiated; • That the complaint was substantiated or substantiated in part; • Any steps recommended to restore the Worker to their position prior to the incident(s) that led to the complaint; • Any relevant training that may be required; • Referral to other support services or strategies; • Further monitoring of the situation; • Statement of regret or apology where appropriate; • Requirement to change processes or procedures; • Recommendations that disciplinary action be taken in accordance with the relevant industrial instrument. 	Vice-Chancellor
Notification to the Complainant(s) and Respondent(s):	The complainant(s) and respondent(s) will be notified both in person and in writing of the findings and relevant outcomes of the investigation and the reasons for the Vice-Chancellor's subsequent decision(s) and specifying any action to be taken.	Vice-Chancellor's Office.

The decision of the Vice-Chancellor is the final step in the process and is not open to challenge via any other dispute settling procedures of the University.

Disciplinary Action

Where a recommendation that disciplinary action be taken for misconduct/serious misconduct, the Vice-Chancellor will consider this recommendation and, if the Vice-Chancellor considers the matter requires further investigation, he/she will write to the staff member in accordance with the Disciplinary clauses of the relevant industrial agreement.

Large and complex investigations

Where the Nominated Investigator determines that the investigation is likely to be complex or involve a large number of Workers, the investigator must make written application to the Director, Human Resources (or nominee) to extend the investigation timeframes. Written notification must include the reasons for the requested extension, steps already taken in the investigation and an estimated completion date.

Complaints against the Director, Human Resources or Senior Management

1. If a complaint is against the Director, Human Resources the University Grievance Officer will act in place of the Director, Human Resources.
2. If a complaint is against a member of the University's Senior Management, the matter will be taken directly to the Director, Human Resources (or nominee) who will refer the matter to the Vice-Chancellor.
3. If a complaint is against the Vice-Chancellor, the Director, Human Resources (or nominee) will refer the matter to the the Chancellor who, after consultation with one Deputy Chancellor, will have discretion as to the appropriate procedure to be used and any subsequent action required, using the spirit of this Procedure

Confidentiality

All persons associated with this procedure are expected to maintain confidentiality and only discuss the complaint with those directly involved or those who have responsibility for dealing with the complaint. A breach of confidentiality may constitute misconduct and result in disciplinary action.

Victimisation

A Worker or any other person who makes a complaint under this procedure must not be victimised, subjected to adverse treatment or in any way treated differently because a complaint has been made. Persons found to have engaged in victimisation may be subject to disciplinary action up to and including possible termination of employment.

Vexatious Complaints

Should a complaint be found to be vexatious, malicious or frivolous, the University may take disciplinary action against the complainant and the disciplinary clauses of the relevant industrial agreement will be applied.

Complaint From Someone Other Than the Person Being Bullied

If a Supervisor/Dean/Head of School/Executive Director or Director or the Director, Human Resources (or nominee) receives a complaint of bullying from a witness rather than the alleged victim, or observes behaviour that may

constitute bullying or is in receipt of information or allegations that may place the University under a legal obligation to investigate beyond that which was intended when making the notification:

- a. The Supervisor/Dean/Head of School/Executive Director or Director should consult with Human Resources;
- b. If the Director, Human Resources (or nominee) is in receipt of the information, consult with a relevant independent consultant;
- c. Take reasonable steps to stop behaviour which is consistent with bullying or which is disrespectful; and/or
- d. Request the matter be investigated in accordance with this procedure; and/or
- e. Speak confidentially with the parties about this procedure and undertake a resolution in accordance with the Local Resolution Process or the Alternative Resolution Process within this procedure.

External Agencies

Complaints about administrative actions and decisions of the University can be made to the Victorian Ombudsman [<http://www.ombudsman.vic.gov.au>]. The Ombudsman is, generally, the office of last resort.

If you have not followed the steps laid down in the relevant University procedures, the Ombudsman may ask you to do so before accepting your complaint.

Complaints regarding bullying may also be made to WorkSafe Victoria or the FWC however the University would encourage complainants to use University processes first.

Responsibilities

Workers and other members of the University:

- are responsible for their own behaviour and must not participate in or encourage bullying or victimise those who may make a complaint; and
- are required to comply with the University's [Staff Code of Conduct Policy](#) and other relevant policies and procedures; and
- who believe they are being bullied, or who are aware of or witness bullying within the University should report it promptly in accordance with the Procedure; and
- may face disciplinary action if they participate in and/or encourage bullying or victimise those who may make a complaint.

Executive Deans/Heads of Schools/Executive Directors/Directors/Supervisors

The Deans/Heads of School/Executive Directors/Directors are responsible for:

- Creating awareness of the University's [Staff Code of Conduct Policy](#); and
- Taking reasonable steps to stop any behaviours which are consistent with the definitions in this procedure or which are disrespectful, even if unreported; and
- Taking seriously any reports of workplace bullying, violence or threats of violence and investigate them promptly, confidentially and impartially in accordance with this procedure. Supervisors/Heads of School or Deans should not rely on a written report of bullying before acting. Verbal reports should be treated as if a written complaint has been made; and
- Seeking advice from Human Resources on the processes required to resolve any complaints of bullying or violence in accordance with this procedure; and
- Publicising the terms of the Policy and this Procedure with their staff members; and

- Ensuring that staff members under their supervision complete the required training and refresher training.

Director, Human Resources:

- is responsible for providing advice on this procedure and making recommendations to the Vice-Chancellor on outcomes.

The Chief Operating Officer:

- as nominee of the Vice-Chancellor, has overall responsibility for the implementation and review of this Procedure.

Policy Base

- [Staff Code of Conduct Policy](#)
- [Bullying Prevention and Management Policy](#).
- [Staff Grievance Policy](#).
- [Discriminatory and Sexual Harassment Complaint Procedure](#)
- [Equal Opportunity and Valuing Diversity Policy](#).
- [Fair and Transparent Decision Making Guidelines](#)

Associated Documents

- [Academic Freedom and Freedom of Speech Policy 2021](#)
- Fair Work Act 2009
- Monash University Enterprise Agreement (Academic and Professional Staff) 2009
- Monash University Enterprise Agreement (Trades and Services Staff – Building and Metal Trades Staff) 2009
- Monash University Enterprise Agreement (Trades and Services Staff – Catering and Retail, Cleaning and Caretaking, and Miscellaneous Services Staff) 2005
- [Federation University Australia Union Enterprise Agreement | Academic and General Staff Employees |2019 - 2021](#).
- [Federation University Australia | TAFE Teaching Staff Agreement 2019](#).

For further information refer to information on the Bullying Prevention and Management website at <http://www.federation.edu.au>

Forms/Record Keeping

The Supervisor/Dean/Head of School/Executive Director or Director, Director, Human Resources or other nominated Human Resources staff member are required to keep file notes of any complaint, witness report and actions under the Local or Formal Procedures. Such files notes are to be marked strictly confidential and held securely. At the conclusion of the process, the confidential file will be held by Human Resources (where the matter concerns staff members).

If the complaint is taken outside the University this record may be used to demonstrate what steps were taken to settle the complaint.